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Anna DUDAK

orcid.org/0000-0002-7491-2980

ALTERNATING CUSTODY AS SEEN BY FATHERS CLAIMING CUSTODY OF THEIR CHILDREN

Анна ДУДАК

АЛЬТЕРНАТИВНА ОПІКА ЯК ЧИННИК РЕАЛІЗАЦІЇ ПРАВА БАТЬКА ПО ДОГЛЯДУ ЗА ДІТЬМИ

У статті представлено результати емпіричного аналізу, проведеного серед батьків, які претендують на право здійснювати альтернативну опіку над дитиною після розлучення. Здійснено спробу діагностувати рейтинг популярності застосування цієї форми опіки над дітьми у Польщі. Проведене дослідження дозволяє стверджувати, що альтернативна опіка оцінюється як мало популярна і використовується не часто. До її основних переваг респонденти відносять насамперед можливість підтримки емоційних зв'язків з дитиною, у той же час менш позитивно сприйняли факт, що обговорюване питання може привести до зниження почуття стабільності у дитини.

Ключові слова: спільна опіка, альтернативна опіка, сім'я, розлучення, батьківство.

Анна ДУДАК

АЛЬТЕРНАТИВНАЯ ОПЕКА КАК ФАКТОР РЕАЛИЗАЦИИ ПРАВА ОТЦА ПО УХОДУ ЗА ДЕТЬМИ

В статье представлены результаты эмпирического анализа, проведенного среди родителей, претендующих на право осуществлять альтернативную опеку над ребенком после развода. Предпринята попытка диагностировать рейтинг популярности применения этой формы опеки над детьми в Польше. Проведенное исследование позволяет утверждать, что переменная опека оценивается как мало популярна и используется не часто. К ее основным преимуществам респонденты относят прежде всего возможность поддержки эмоциональных связей с ребенком, в то же время менее положительно восприняли факт, что обсуждаемый вопрос может привести к снижению чувства стабильности у ребенка.

Ключевые слова: совместная опека, альтернативная опека, семья, развод, отцовство.

The statement of the problem. Divorce is becoming an increasingly popular solution to communication problems between spouses in contemporary communities. The experience of divorce is very personal: whereas some people perceive it as a traumatic event which requires adaptation to new circumstances, dealing with a sense of failure and disappointment, others view it as liberation from a toxic relationship and a chance for self-fulfilment. One of the most important issues for divorcing parents is the establishment of child custody arrangements. Parents should place a priority on providing their child with conditions which ensure healthy development – one such condition is maintaining close contact with both parents. Alternating custody was already discussed in the United States during the 1980s, in connection with an increasing number of divorces and the activity of organisations advocating fathers' rights. Nowadays, growing interest in this form of custody can be observed in many countries. Changing perceptions of the father's role and his importance in the process of upbringing have triggered discussions on alternating custody among interested parties, representatives of scientific circles, and family judges. It should be emphasised that men have become more aware of their importance to family life, demonstrating competence in upbringing, while they undertake educational actions as a way of improving their knowledge about childcare. Involved fatherhood is not only a sign of greater upbringing awareness – of the willingness to actively participate in their child's life, challenging the stereotype of the father as a secondary custodian – but also an opportunity to find fulfilment in a role which brings great satisfaction and happiness.

Looking for reasons to implement alternating custody, one should take into account the fact that divorce is a traumatic experience, especially for the child who loses everyday contact with one of its parents (usually the father). This, in turn, leads to a weakening in the emotional bond between them. Contemporary family researchers emphasise that divorce should be understood as an outcome of prolonged stress which leads to a life crisis. The decision to split up is then followed by long court formalities, usually accompanied by struggles over child custody, division of property, etc. Differences in opinion and expectations, as well as placing blame on one another, result in the escalation of marital conflict. Oftentimes the child becomes a bargaining chip in the process and all attempts to reach an agreement on the child's custody are unsuccessful. The importance of the agreement between both spouses is therefore vital, encompassing a search for creative solutions while keeping one's emotional distance. According to Ch. Moore, conflict may lead to development, however whether that happens or not depends on the ability of the involved parties to find efficient methods of problem solving: putting aggression and lack of trust aside, being able to work together to resolve the existing conflict, and finally on looking for solutions that would, at least, be partially satisfactory for all sides of the conflict [7, 11]. Agreement on custody arrangements is especially

important for fathers, who perceive it as a chance to maintain close contact with their child after the divorce.

The increasing popularity of alternating custody is conditioned by social and emotional problems experienced by children brought up in broken families. These issues have been discussed in numerous studies.

Alternating custody means the custodial division of a child or children between their separated or divorced parents. The child lives with one parent for some time, and then spends a similar amount of time with the other. In many countries, including Poland, this form of custody is awarded very rarely [3, 42]. Most popular arrangements include sole custody and joint custody. Sole custody means that one parent (usually the mother) has custody of the child, while the other parent has limited custodial rights and responsibilities. In joint custody both parents have legal custody of the child, yet the child stays with one parent, their contact with the other being regulated by a custody schedule. In practice, oftentimes in this type of arrangement the parent with custody limits the other's contact with the child.

The arrangement discussed in this article – alternating custody – is a type of shared custody that requires parents to develop a parenting plan and agreement, which they then have to honour. In this type of arrangement the child lives with one parent and then spends a similar amount of time with the other. Likewise, both parents are custodial. According to R. Kucharski, if the parents choose alternating custody together and consciously, they are ready to make joint decisions concerning upbringing [5, 47]. The court's decision is based on the opinions of the divorcing parents as well as their financial situation – since the parents need to satisfy their child's needs at a similar level.

Implementation of alternating custody is possible only if both parents can cooperate with each other. Other important factors include flexibility: the ability to arrive at a compromise on the division of parental duties and rights, as well as the geographical proximity of the parents' place of residence. In the United States, the permitted distance between the child's residences cannot exceed 100 miles. In Poland the allowed distance is 30 kilometres, however, the situation is best when both parents live in one city. This condition is important mainly because of organisation-related issues [5, 5].

Benefits and Drawbacks of Alternating Custody Presented in the Studies

The interest in alternating custody has also been reflected in studies which have been carried out mainly in the United States and Sweden. Alternating custody has as many supporters as critics among these researchers.

According to M. Elkin, alternating custody is an attractive solution for both parents and children, because divorce – the end of a marital relationship – does not mean the termination of parental responsibility. The parent's role is

immanent and, therefore, they should be able to remain involved in their child's life indefinitely [4, 12].

According to research conducted by the American psychologist R. Bauserman, children who maintain regular contact with both parents after a divorce are better adapted socially, have higher self-esteem, as well as fewer difficulties in establishing relations with peers and family members than children who have been deprived of contact with one of their parents [1, 91 – 102]. It should be noted that this study was conducted on parents who were granted joint – alternating or shared legal – custody. Therefore, an analysis of the findings leads to the conclusion that the most important factor conditioning the child's proper development is unlimited and natural contact with both parents, regardless of whether the child lives in two places or with one custodian only. Also mentioned was the positive influence of joint custody on both parents. The necessity of developing a joint parenting plan, as well as undertaking any actions necessary to establish cooperation on issues pertaining to the child, may help to resolve the conflict between both ex-partners [5, 49].

B. and G. Öbergs emphasise that the same amount of time spent in contact with both parents gives the child a sense of safety, not to mention the assurance that it is important to both its mother and its father. Moreover, if the child stays with each parent for a similar amount of time, it does not experience the loss of one of the parents, which is often a result of the divorce. Understanding and communication between the divorced parents, which can manifest itself in an acceptance of this form of custody, considerably limits the child's participation in conflict situations as well as in arguments and struggles between its parents. Moreover, the child does not have to make subjective decisions on which parent is better or more loving based only on how much time their parent spends with them. The findings of Öbergs' research reveal that alternating custody provides fathers with the opportunity to maintain an emotional bond with their child as well as actively participate in their upbringing since, in comparison with other forms of custody, the father can communicate with the child without any difficulties and perform his parental duties. L. Tornstam positively assesses the situation of a child staying with its parents for alternate periods of time claiming that children whose parents live separately and have alternating custody develop quicker, have better comfort in life, can easily adapt to new situations, have a more positive image of themselves and higher self-esteem than children living with only one of their parents [2, 17].

Criticism of alternating custody is dominated by opinions concerning organisational issues connected with the necessity of carrying the child's belongings between both parents' houses, or with the need to buy a second set of things the child uses. Many psychologists claim that constantly changing the place of residence deprives the child of a sense of stability that is crucial for the healthy development of an individual's personality. Providing the child with

conditions supporting their proper development requires, among others, parental competence and the belief that the child's upbringing is the most important issue, no matter how serious the conflict situation resulting from the divorce is. Even if both parents agree on alternating custody, they may sometimes be too strict in implementing the parenting schedule; if observing the parenting schedule becomes their main goal, this is a cause for concern. Additionally, many parents use the time they spend with their children to silence their conscience – spoiling the child, trying to make up for the situation they have placed it in.

Some critics of alternating custody claim that the child's functioning in such a situation may affect their ability to establish deep and steady relationships throughout adult life. However, it should be noted that divorce and its consequences, regardless of the type of custody awarded by the court or the quality of contact between the divorced parents and the child, considerably affects the child's emotional and social development.

Many extremely negative opinions about alternating custody have come from the American feminist community of activists advocating female rights. M.A. Mason claims that the increased interest in alternating custody is not based on the «best-interests-of-the-child» rule, but rather in promoting the interests of the parents, especially the father [6, 89]. Moreover, alternating custody causes an escalation of the conflict, arousing hidden anger since it allows the parent in custody to manipulate the child, turning them against the parent who is not in custody at that given moment.

J. Solomon and C. George indicate that alternating custody can have severe consequences on younger children, especially if they miss their mother and feel insecure. Therefore, alternating custody requires cooperation between ex-spouses, prioritising the wellbeing of the child over other issues, and, thus creating conditions that would reduce the repercussions of divorce. Unfortunately, the practice shows that custodians in a divorce situation not only do not think about the child, but very often use them in the conflict as well [9, 243 – 264].

Studies show that alternating custody is a good solution, provided that the children are older than three. Since peer environment constitutes a crucial factor throughout the child's development, parents should live in close proximity to each other. Furthermore, both parents need to be aware that alternating custody is first and foremost a solution oriented towards children, not confirmation that the court's verdict was fair and that responsibilities and rights have to be shared by both parents [2, 20].

The most important drawback of this form of custody as perceived by the parents is the fact that they cannot truly free themselves from unpleasant memories connected with the divorce and their ex-partner. However, regardless of the form of custody which has been decided upon by the court, ex-spouses still go back to the times they spent together. It may be concluded that proper

communication and agreement on the child's issues may alleviate any negative emotions connected with the past.

Research on alternative custody conducted by A. Taanila, E. Laitinen, I. Moilanen, M.R. Järvelin confirms scepticism towards this form of custody [10, 693 – 708]. They indicate that 21 out of 60 families participating in the study chose alternating custody; however the respondents claimed that this form of custody did not guarantee proper development of their child's personality. The parents considered the willingness to cooperate on their children's issues more important. Interestingly, only eight out of 21 families cooperating well or properly on child-resulted issues chose alternating custody; 70 % of the children from the whole study group maintained close relations with their father, rating his importance in their lives highly.

The definition of the aim and objectives of the research

The study employed the method of diagnostic survey and a questionnaire for collecting the opinions of fathers who had claimed their children on the basis of alternating custody. The study was conducted over a period of 22 months in cooperation with the Centre for Fathers' and Children's Rights Association. The main aim of the association is the defence of fathers' rights in the best interests of their children; to advocate changes in court practices and institutions which discriminate against fathers as rightful custodians and participants in the process of upbringing; and to stress the father's crucial role in their child's proper development.

The research was conducted on a group of 102 fathers who claimed custody of their children or wanted to establish contact with them. The group varied in terms of age – 23 to 56 years-of-age; the average age for the study group was 34.29. Most of the study subjects held a degree in higher education (67.65 %) or a high school diploma (26.47 %); the remaining 5.88 % had graduated from a vocational school. Additionally, the majority of the respondents came from the city (89.22 %). The analysis of the data on education and place of residence indicates that the struggle for custody of the child is undertaken more often by fathers who show bigger upbringing awareness, have a better possibility of finding information on their situation – provided by easier access to better sources of information – and who can gain the support of a father's organisation (which operate mainly in bigger cities). The majority of the study group were divorced (40.20 %), and 23.53 % were still married but had already started the divorce process. Over one-fifth of the respondents had remarried and were claiming custody of a child from a previous marriage. The study group also included men not formally married (14.70 %). 14.72 % of remarried respondents tried to establish a parenting time schedule, and 11.76 % were separated. Over half of the respondents had one child, 38.24 % had two children, and the remaining respondents had three or more. Over half the respondents claimed that their financial status was good, and 11.76 % considered their

financial status very good. The majority of the respondents (57.84 %) owned an apartment, while almost one fourth of the fathers were living with a family member.

The field of research also required data on the legal situation concerning custody of the child. Over one third of the respondents had limited visitation rights and could contact their child on dates appointed by the court – since custody had been granted to the mother. Although 18.63 % of the study group had signed a parental agreement with the ex-wife, the regulations included in the parenting plan were not being observed by her. A similar situation concerned 10.78 % of the respondents, whose contact with their children, despite having been granted full parental rights, was obstructed. Only one father from the study group was in alternating custody of the child. It should be emphasized that in the case of almost one-fourth of the respondents, the legal situation was impossible to establish due to on-going divorce procedures.

The research outcome

As has already been mentioned, alternating custody is a controversial topic among theorists and practitioners; it has both its supporters and critics. Many psychologists, pedagogues and lawyers present the findings from empirical analyses which discuss the drawbacks and benefits of this form of custody. The research conducted by the author focuses on the opinions of alternating custody as it has been expressed by fathers who have claimed custody of their children after a divorce. Fathers are directly involved in providing care for their children after the divorce, and their opinions are based on personal experiences of relations with their child and the mother upon the collapse of the family.

The empirical data presented in *Table 1* reveals that the benefit of alternating custody most frequently mentioned by the fathers is the possibility of maintaining an emotional bond with their child; this answer was given by 95.09 % of the respondents. 88.23 % also mentioned participation in the everyday life of their children, and 87.25 % of the respondents claimed that alternating custody allows them to make decisions for their child, including on issues regarding education (82.35 %). The research shows that the main reason for alternating custody is the possibility of maintaining steady contact with the child. This positive evaluation of such a form of custody after a divorce is inseparably connected with the fact that the vast majority of divorced fathers are have been deprived of the right to take care of their child, the time they can spend with them having been regulated by the court's decision. Statistical data confirms that men are still considered to be secondary custodians, a finding which reflects the stereotypical division of the family into male and female roles. According to the data, only seven percent of fathers in Poland are granted custody of their child after a divorce [8, 258]. This data correlates with statistics from other countries.

Less popular advantages of alternative custody include the possibility of sharing the costs of the child's upbringing (67.64 %) and improving relations between ex-spouses, since both parents have to communicate to address child-related issues (58.82 %). These answers may suggest that fathers consider financial issues and their relationship with their ex-spouse to be of secondary importance in alternating custody.

Table 1

The advantages of alternating custody as seen by the respondents

<u>The advantages of alternating custody as seen by fathers</u>	N	%
The possibility of maintaining an emotional bond with their child.	97	95.09
Sharing the costs of their child's upbringing	69	67.64
Participation in their child's everyday life	90	88.23
Making joint decisions concerning their child's future	84	82.35
Making joint decisions concerning their child's current problems	89	87.25
Improved relations with their ex-spouse	60	58.82

Data does not add up to 100%, as the question was multiple choice.

The fathers participating in the study also mentioned some drawbacks of alternating custody; it should be noted however, that almost one-fourth of the respondents did not mention any drawbacks in the arrangement. The data presented in *Table 2* reveals that the negative aspect of alternating custody most frequently noticed by men is the lack of stability resulting from the fact that their child lives in two places; this answer was given by 34.31 % of the respondents. Fathers also considered the necessity of maintaining contact with their ex-spouse to be an important obstacle (30.39 %). Such opinions are probably connected with the fact that the very decision to divorce, the divorce itself and the avoidance of divorce mediation have all led to an escalation in the conflict between both spouses. Hence, many participants in the study were unwilling to maintain any contact with their ex-wife. The remaining drawbacks of alternating custody include the necessity of transporting the child between two houses (21.56 %) and the financial costs incurred by this situation (16.66 %).

Table 2**Drawbacks of alternating custody as seen by the respondents**

Drawbacks of alternating custody as seen by the respondents	N	%
Lack of stability resulting from two places of residence	35	34.31
The necessity of transporting the child from one place to another	22	21.56
Transportation costs	17	16.66
The necessity of maintaining contact with their ex-spouse	31	30.39
Data does not add up to 100 %, as the question was multiple choice.		

The respondents were also asked to express their opinions on the conditions which are necessary for the proper implementation of alternating custody. The fathers' responses are presented in *Table 3*. The data shows that the respondents consider the age of the child to be the most important factor in alternating custody ($M=4.20$). Fathers usually stated that alternating custody could be introduced when the child is older than three and when they are no longer being breastfed. These results correlate with the research findings of R. Boch (2010), among others. The distribution of the average results also reveals that the fathers participating in the research consider their financial situation to be very important ($M=3.73$). Since a relatively high number of respondents consider this factor to be important, this may be an indication that they are aware that if both parents provide their child with a similar standard of living, they will feel more secure, not feel as disappointed, and will not form any subjective opinions about which parent is better – just because one happens to be richer and therefore buys more presents and indulges their child's every whim. These conditions seem especially important when taking into account how the financial situation affects not only the wellbeing of the child, but also how it is considered by parents and family courts to be an indicator of how well a parent can take care of their child. Mandatory family mediations during the development of a parenting plan were not considered very important by the fathers. However, the average result ($M=2.96$) attests to the fact that fathers are highly aware of how important family mediation actually is. They know that the underlying aim of this mediation is to reach an agreement, often referred to as a parental plan, which includes guidelines to be followed by both parents with regards to custody of their child. Mandatory participation in divorce mediation has been introduced to help both spouses reach an agreement when the conflict has been exacerbated and they can no longer deal with the situation on their own. It should be emphasised, however, that a divorce or separation does not support reaching an agreement between the parties, and the process

itself generates stress both for the spouses and the children. The condition seen as least important in alternating custody was the proximity of the parents' places of residence after a divorce ($M=1.54$). One can conclude, therefore, that the respondents do not consider geographical distance to be important, a finding confirmed by the already-presented results which shows that the percentage of respondents who considered transporting their child from one place to another, as well as the inherent transportation-related costs, to be least important (see *Table 2*). Also, it is surprising that geographical proximity was considered most important by the majority of fathers, whereas the age of the child was least important.

*Table 3***Conditions for alternating custody**

rank	Conditions for alternating custody				
	Geographical proximity of the parents' respective place of residence	Chances of reaching an agreement by both parents	Similar financial situation of the parents	Mandatory participation in family mediation	Child's age
I	66	32	3	4	3
II	23	40	7	24	10
III	8	9	20	52	12
IV	4	13	56	16	15
V	1	8	16	6	62
<i>M</i>	<i>1.54</i>	<i>2.26</i>	<i>3.73</i>	<i>2.96</i>	<i>4.20</i>

M – arithmetic average

The research also evaluated the popularity of alternating custody in Poland. The results presented in *Table 4* clearly show that a considerable majority of the respondents (88.24 %) perceive alternating custody as too unpopular in Poland; half of the respondents expressed a strong opinion about this. These findings reflect court verdicts in Poland, at least as far as child custody is concerned, in showing that this form of custody is rarely awarded by the courts in Poland.

Table 4**Popularity of alternating custody in Poland as seen by the fathers**

Popularity of alternating custody	N	%
Definitely popular	0	0
Popular	12	11.76
Definitely unpopular	51	50
Unpopular	39	38.24
<i>Total</i>	<i>102</i>	<i>100</i>

The assessment of alternating custody was complemented by declarations of the fathers' willingness to have such a form of custody after the divorce. These findings allow for a conclusion that the vast majority of men (87.26 %) were willing to hold alternating custody of their child, almost half of them expressing a strong willingness to do this. An analysis of the data allows one to state that the main aim of fathers who undertake legal steps to exercise their rights is maintaining steady relations with their child. However, they are also aware that the bond between the child and both parents will condition its proper psycho-social development. Therefore, the solution discussed in this article satisfies the needs of children as well as those of both parents, who are aware of their importance in the child's life.

Table 5**Willingness to hold alternating custody**

Willingness to hold alternating custody	N	%
Definitely yes	50	49.02
Yes	39	38.24
Definitely no	12	11.76
No	1	0.98
<i>Total</i>	<i>102</i>	<i>100</i>

This analysis also attempted to define the correlation between the opinions of respondents about alternating custody and their legal status. The empirical research did not reveal any statistically important differences ($p > 0.05$).

Conclusions. This article discusses issues pertaining to contemporary families and their functioning during times of various transformations: a departure from stereotypical parental roles based on the sex of the parent; an increasing number of divorces; the autonomy of family members; and the necessity of amending family laws in order to improve the quality of family life. The findings of this research have drawn a different picture of men: a man who, despite the collapse of his marriage, wants to maintain contact with his child and is aware of his own importance in the process of upbringing. The contemporary father is more often an involved guardian, a competent and sensitive parent as well as – in a divorce situation – a person fighting for the wellbeing of their child, not against their ex-spouse.

The analysis of the data allows one to conclude that alternating custody is a solution preferred by the majority of fathers interested in active participation in their child's life. The majority of fathers have mainly noticed advantages in this form of custody, whereas the drawbacks have primarily been concerned with the child's proper development. Alternating custody is a desirable, but unfortunately unpopular, form of custody, therefore, it should be promoted, a thesis which has been presented in the above-mentioned findings. It should be said, however, that popularising alternating custody would require an introduction of changes to court procedures, the good will of family courts, as well as the promotion of mandatory divorce mediations that could increase the spouses' chances for reaching an agreement and introducing this form of custody. It will definitely be difficult to undertake these tasks, requiring time and amendments to legal regulations. However, considering the fact that alternating custody may improve the chances of maintaining a bond between both parents and their children, ensuring proper relations in the process, this topic should be high on the agenda of pedagogues, psychologists, judges, social workers and any other interested parties who can offer satisfactory solutions.

References

1. Bauserman R. Child Adjustment in Joint-Custody Versus Sole-Custody Arrangements: A Meta-Analytic Review, *Journal of Family Psychology* 16, 2002, no. 1, pp. 91 – 102.
2. Boch R. Opieka naprzemienna, czyli zamieszkanie naprzemienne – perspektywa szwedzka (*Alternating Custody, or Alternating Residence – Swedish Perspective*), In *Perspektywy stosowania opieki wspólnej w Polsce (Perspectives on Alternating Custody in Poland)*, Edited by Robert Kucharski, Warszawa, 2010, Fundacja Akcja, pp. 7 – 37.
3. Czerederecka A. Rozwód a rywalizacja o opiekę nad dzieckiem (*Divorce and Rivalry Between the Parents Concerning Custody of the Child*), Warszawa, 2010, Lexis Nexis.

4. Elkin M. Joint Custody: In the Best Interest of the Family, In *Joint Custody & Shared Parenting*, Edited by Jay Folberg, New York: Guilford Publications, 1991, pp. 11 – 15.
5. Kucharski R. Perspektywy stosowania w Polsce opieki wspólnej (*Perspectives on Alternating Custody in Poland*), Warszawa, Fundacja Akcja, 2010.
6. Mason M.A. *The Equality Trap*, New Jersey: Transaction Publishers, 2002.
7. Moore Ch.W. Mediacje. Praktyczne strategie rozwiązywania konfliktów (*The Mediation Process: Practical Strategies for Resolving Conflict*), Warszawa – Kraków: Wolters Kluwer Polska, 2009.
8. Rocznik Demograficzny GUS, Warszawa, 2015.
9. Solomon J., George C. The effects on attachment of overnight visitation in divorced and separated families: A longitudinal follow-up, In *Attachment Disorganization*, Edited by Judith Solomon and Carol George, New York: Guilford Press, 1999, pp. 243 – 264.
10. Taanila A., Laitinen E., Moilanen I., Järvelin M.R. Effects of Family Interaction on the Child's Behavior, In Single-Parent or Reconstructed Families, *Family Process* 41, no 4, 2002, pp. 693 – 708.

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